

PATENT

Atty. Dkt. No. 03493.86913 (ATT/112518CON)

**REMARKS**

In view of the above amendment and the following discussion, the Applicants submit that none of the claims now pending in the application are made unpatentable or obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicants believe that all of these claims are now in allowable form.

**I. REJECTION OF CLAIMS 32, 34 AND 35 UNDER 35 U.S.C. § 103**

The Examiner has rejected claims 32, 34 and 35 in the Office Action under 35 U.S.C. § 103 as being unpatentable over by Frey, et al. (U.S. Patent 5,982,783, issued on November 9, 1999, hereinafter referred to as "Frey") in view of Aldred, et al. (U.S. Patent 6,278,693, issued on August 21, 2001, hereinafter referred to as "Aldred"). The Applicants respectfully traverse the rejection.

Frey teaches a switch distribution via an intermediary switching network. A first communications network using a first communications protocol is controlled by a second communications network using a second communications protocol that is connected to the first communications network via a third communications network that uses a third communications protocol. (See Frey, col. 1, ll. 40-66).

Aldred teaches a communications system with quality of service parameters. A centralized resource manager is responsible for handling quality of service issues. (See Aldred, col. 7, ll. 16-22).

The Applicants respectfully submit that Frey and Aldred, alone or in any permissible combination, fail to teach or suggest a network comprising a frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address, wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, as positively claimed by Applicants in independent claim 32. Specifically, Applicants' independent claim 32 recites:

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## 32. A network comprising:

customer premises equipment;

a frame relay switch coupled to the customer premises equipment with at least one permanent virtual circuit and receiving a plurality of frame relay data packets, the frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address;

wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, wherein said plurality of different types of communication paths comprises at least two of: a public internet, a local intranet, or an extranet. (Emphasis Added)

In one embodiment, the Applicants' invention teaches that layer 4 data may be utilized to determine a quality of service of a plurality of different service categories. (e.g., See Applicants' specification, page 16, line 12 – page 17, line 1). For example, the switch can use the IP addresses and/or TCP logical ports to make quality of service (QOS) decisions. (e.g., See Applicants' specification, page 13, lines 7-9).

Additionally, in one embodiment, the Applicants' invention teaches that the switch is responsive to a plurality of service categories. The service categories may include different types of communication paths such as, for example, the public internet, communication via a local intranet, communication within a closed user group (CUG), communication with an extranet, live audio/video transmission, multicasting, telephony over IP, or any combination thereof. (e.g., See Applicants' Specification, page 13, lines 15-21). As such, Applicants' invention teaches a frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address, wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data.

The Applicants submit that Frey and Aldred, alone or in any permissible combination, fail to teach or to suggest a network comprising a frame relay switch for translating user data within at least one of the frame relay data packets into a fast packet address, wherein the frame relay switch is responsive to a plurality of different

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service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data. For example, Frey only teaches that a frame relay module performs DLCI translation for received and transmitted LAPD packets and maintains a translation table that associates the translated DLCI with the VPI/VCI. (See Frey, col. 15, ll. 1-15). The Applicants respectfully submit that this is not equivalent to the specific embodiment of translating user data within at least one of the frame relay data packets into a fast packet address. Notably, Frey is silent as to using any user data within the data packets or translating any user data within the LAPD packets into a fast packet address.

Furthermore, Frey fails to teach or suggest wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data. The Examiner concedes this in the Office Action. (See Office Action, p. 4, l. 20 – p. 5, l. 4). However, the Examiner asserts that Aldred bridges the substantial gap left by Frey.

Aldred fails to bridge the substantial gap left by Frey because Aldred also fails to teach or suggest wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data.

Rather, Aldred specifically teaches that a resource manager is responsible for handling quality of service issues. (See Aldred, col. 7, ll. 19-21). Therefore, Aldred teaches that a resource manager is configured to determine a quality of service and not the frame relay switch. In other words, Aldred assigns the responsibility of quality of service controls to a resource manager contrasted to the Applicants' invention that distributes the responsibility of determining quality of service of the plurality of different service categories to the frame relay switches.

Consequently, even if Frey and Aldred were permissibly combined, the combination would teach a first communications network using a first communications

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protocol is controlled by a second communications network using a second communications protocol that is connected to the first communications network via a third communications network that uses a third communications protocol having a centralized resource manager for handling quality of service issues. Notably, the combination of Frey and Aldred would not teach or suggest wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, and configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data. As such, the combination of Frey and Aldred does not make obvious Applicants' invention as claimed in independent claim 32.

In addition, dependent claims 34 and 35 depend from claim 32 and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 34 and 35 are also patentable over Frey and Aldred and respectfully request the rejection be withdrawn.

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**Conclusion**


Thus, the Applicants submit that all of these claims now fully satisfy the requirements of 35 U.S.C. § 103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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